## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)
Plaintiff,	) ) 4:13CV3038
V.	)
\$8,189.00 IN UNITED STATES CURRENCY,	) FINDINGS AND ) RECOMMENDATION
Defendant.	) ) _ )

On February 20, 2013, Plaintiff filed a Verified Complaint for Forfeiture (filing 1.) Through counsel, Claimant John Salinas ("Claimant") filed a Claim (filing 12) and an Answer (filing 13). The Court entered an amended progression order on February 5, 2014, establishing deadlines for discovery and motions in this case. (Filing 24.)

On March 20, 2014, Claimant's counsel moved to withdraw from the case (filing 26), stating that he had been unable to communicate with Claimant. The Court granted the motion and directed Claimant's counsel to mail copies of the Court's order on the motion to withdraw to Claimant. (Filing 27.) The order further directed Claimant to file a written notice with the Clerk of Court advising as to his current address and telephone number within five days of being served with the order. (Id.) The order also notified Claimant that until substitute counsel entered an appearance on his behalf, he had the responsibility of complying with all court orders, the Federal Rules of Civil Procedure and the Local Rules of Practice. (Id.) He was advised that failure to do so could result in the imposition of sanctions, including the entry of default judgment. (Id.)

On April 14, 2014, in accordance with the Court's order, counsel filed a Certificate of Service (filing 28) stating that he had been unable to serve Claimant, but that he had verbally informed Claimant of the content of the Court's order and that Claimant refused to provide counsel with his address. To date, Claimant has not filed an entry of appearance in this suit, nor has substitute counsel entered an appearance on his behalf.

Plaintiff has filed a motion requesting that the Court strike Claimant's Claim and Answer, and enter Default Judgment in favor of Plaintiff. In support of this motion, Plaintiff cites Claimant's failure to participate in this suit or comply with the Court's order directing Claimant to provide his contact information. (Filing 29.) Claimant has not responded to Plaintiff's motion.

Having considered the matter, the Court finds that Plaintiff's motion should be granted. Under the Federal Rules of Civil Procedure, a party's failure to follow a discovery order justifies the imposition of sanctions, including the entry of default judgment, striking pleadings and case dismissal. *See* Fed. R. Civ. P. 37. The Court directed Claimant to provide his current address and telephone number. The Court also advised Claimant that his failure to comply with Court orders, the Federal Rules of Civil Procedure and the Local Rules of Practice could result in the imposition of sanctions, including the entry of default. Claimant has refused to comply with this Court's orders or to otherwise participate in this suit.

Accordingly,

**IT IS HEREBY RECOMMENDED** to Chief United States District Court Judge Laurie Smith Camp that Plaintiff's Motion to Strike (<u>filing 29</u>) be granted, and that default judgment be entered in favor of Plaintiff.

The parties are notified that failing to timely object to this Findings and Recommendation as provided in the local rules of this Court may constitute a waiver of any objection.

**DATED June 18, 2014.** 

**BY THE COURT:** 

S/ F.A. Gossett United States Magistrate Judge